

REMARKS

Summary Of The Office Action & Formalities

Status of Claims

Claims 1-36 are all the claims pending in the application. By this Amendment, Applicant is amending claims 1, 20 and 35. No new matter is added.

Claim Rejections - § 112 & Interview Summary

Claims 1-36 are rejected under 35 U.S.C. § 112, second paragraph, for the reason set forth at pages 2-3 of the Office Action

Applicant's representative, Raja Saliba, thanks the Examiner for the telephone interview conducted on January 12, 2010, and the follow-up message recently left by the Examiner on Mr. Saliba's voice mail.

During the interview, the foregoing claim amendments were discussed and believed to overcome the current § 112 rejections. More specifically, during the interview, Mr. Saliba clarified that the movable pressurized container is not part of the indicator. Claims 1, 20 and 35 are to a dose indicator *for a fluid dispenser* and not to a fluid dispenser. That is, the claims are to the indicator and reference to the fluid dispenser refers to the surrounding, but not claimed, environment. Indeed, in a preferred embodiment, the container cooperates with the transmission element, but the indicator could also be actuated by some other movable part, *e.g.*, an element fixed on the container (*see* page 8, lines 9-19). The Examiner agreed that the foregoing amendments removes any confusion as to whether the dispenser itself is claimed.

Regarding the Examiner's initial position that the claimed lacked a recitation of essential elements, after comparing the claim language to an exemplary, but non-limiting embodiment in Figs. 3 and 4, the Examiner agreed that sufficient structure was claimed.

The Examiner's voice message confirmed that the Applicant should file the foregoing claim amendments to clarify the claimed subject matter and to have the § 112 rejections withdrawn. The Examiner indicated that he believed the application would then be in condition for allowance subject only to an updated art search.

Allowable Subject Matter

Claims 1-36 were indicated as being allowable if rewritten to overcome the rejection(s) under 35 U.S.C. § 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

In view of the foregoing Amendments, claims 1-36 are now in condition for allowance.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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23373

CUSTOMER NUMBER

Date: January 29, 2010